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CGA LEGAL

THE GST BULLETIN

YOUR INDIRECT TAX KNOWLEDGE PARTNER

JULY 2023 ISSUE – I

DATE OF ISSUE – 1ST JULY 2023

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1ST JULY



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About The GST Bulletin

The GST Bulletin is a Weekly Newsletter from Team CGA Legal, a leading Indirect Tax Consultancy firm. The Newsletter is intending to keep its readers updated with all important legal and judicial updates in Goods & Services Tax and other Indirect Tax laws. The Newsletter also has a special column of GST Compliance Calendar for the month. Along with it, CGA Legal also sends various legal recommendations which have immense implications in improving the compliance of GST in your business.

All editions of our newsletters can be referred from below link below;
<https://www.cgalegal.co.in/home/newsletters.php>

Other Offerings from Team CGA Legal

- **CGA Legal GST Compliance Calendar:** Our Monthly Calendar detailing all GST related compliances for the month so that you never miss of any of the compliances.
- **CGA Legal Meet:** Our Monthly Webinar series discussing various trending GST legal and compliance issues

All the previous editions can be accessed on our website
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GST Compliance Calendar - July 2023

Date	Types of Return	Period	Types of Taxpayer
10-07-2023	GSTR-7	June 2023	TDS Deductor
10-07-2023	GSTR-8	June 2023	E-Commerce Operator
11-07-2023	GSTR-1	June 2023	Turnover more than INR 5 crore in the preceding FY or Turnover up to INR 5 crores and opted for monthly return filing
13-07-2023	GSTR-1	Apr to June 2023	Turnover up to INR 5 Crores and under QRMP Scheme
13-07-2023	GSTR-6	June 2023	ISD
13-07-2023	GSTR-5	June 2023	Non Resident Taxable Person
18-07-2023	CMP-08	Apr to June 2023	Composition Dealer
20-07-2023	GSTR-3B	June 2023	Turnover more than INR 5 crore in the preceding FY or Turnover upto INR 5 crore in the preceding FY but opted for monthly return filing
20-07-2023	GSTR-5A	June 2023	OIDAR
22-07-2023	GSTR-3B	Apr to June 2023	Taxpayer opted for QRMP Scheme having aggregate turnover upto INR 5 Cr. for *Category A States
24-07-2023	GSTR-3B	Apr to June 2023	Taxpayers opted for QRMP Scheme, having aggregate turnover upto INR 5 Cr for **Category B States

Notes:

Categories of Taxpayers whose Aggregate Turnover is upto INR 5 crore for the purpose of filing GSTR-3B:

* **Category A:** Regular Taxpayers having an aggregate turnover of upto INR 5 crores whose principal place of business is in the States of Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana or Andhra Pradesh or the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands and Lakshadweep.

** **Category B:** Regular Taxpayers having an aggregate turnover of upto INR 5 crores whose principal place of business is in the States of Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha or the Union territories of Jammu and Kashmir, Ladakh, Chandigarh and Delhi.

GST Technical Updates

E-Invoice Verifier App by GSTN

Dated : 08-06-2023

1. The E-Invoice Verifier App developed by GSTN, has been introduced which offers a convenient solution for verifying e-Invoices and other related details. GSTN understands the importance of efficient and accurate e-invoice verification, and this app aims to simplify the process for your convenience.

2. E-Invoice Verifier App - Key Features and Benefits:

- i. **QR Code Verification:** The app allows users to scan the QR code on an e-Invoice and authenticate the embedded value within the code. This helps in identifying the accuracy and authenticity of the e-Invoice.
- ii. **User-Friendly Interface:** The app provides a user-friendly interface with intuitive navigation, making it easy for users to navigate through the app's features and functionalities.
- iii. **Comprehensive Coverage:** The app supports verification of e-Invoices reported across all six IRPs, ensuring comprehensive coverage and convenience.
- iv. **Non-Login Based:** The app operates on a non-login basis, meaning users are not required to create an account or provide sensitive personal information to access its functionalities. This simplifies the user experience and makes it more convenient for users.

3. How to use the e-Invoice Verifier App:

- i. **Download the App:** Visit the Google Play Store and search for "E-Invoice QR Code Verifier." Download and install the app on your mobile device free of charge. The iOS version will be available shortly.
- ii. **QR Code Scanning:** Utilise the app to scan the QR codes on your e-Invoices. The app will authenticate the information embedded in the code and one can compare it with information printed on the invoice.

GST Technical Updates

E-Invoice Verifier App by GSTN

Dated : 08-06-2023

4. GSTN emphasizes that the e-Invoice Verifier App does not require any user login or authentication process. Anyone can freely scan QR codes and view the available information.
5. For more detailed information please see the FAQs in the app. This comprehensive FAQ document will provide you with additional guidance on using the app and resolving any queries you may have.
6. GSTN is dedicated to enhancing your experience with the E-Invoice Verifier App and providing a process of seamless e-Invoice verification. GSTN is also working towards launching Version 2 with the Search IRN functionality, which will further streamline your e-Invoice verification.

GST News

Grid scale battery storage may get a GST sweetener

Dated : 27-07-2023

The power ministry is considering recommending slashing the goods and services tax on grid-scale battery storage to 5% in order to help India transition to an energy mix with a bigger share of renewables.

Read more at: <https://www.livemint.com/news/india/indian-power-ministry-may-recommend-gst-cut-on-grid-scale-battery-storage-to-boost-renewables-transition-11687796365980.html>

ICICI Prudential shares in focus as insurer gets Rs 492-crore GST notice

Dated : 27-07-2023

Shares of ICICI Prudential Life Insurance Company Ltd were in focus today after the insurance firm said it received a show cause cum demand notice (SCN) for a goods and services tax (GST) liability of Rs 492 crore.

Stock of ICICI Prudential Life was trading flat at Rs 566.90 against the previous close of Rs 563.70 on BSE. Total 0.28 lakh shares of the firm changed hands amounting to a turnover of Rs 1.55 crore on BSE. Market cap of the firm stood at Rs 81,568 crore. The stock hit a 52-week low of Rs 380.95 on March 16, 2023 and a 52-week high of Rs 608.65 on September 2, 2022..

Read more at: <https://www.businesstoday.in/markets/company-stock/story/icici-prudential-shares-in-focus-as-insurer-gets-rs-492-crore-gst-notice-387212-2023-07-27>

GST – Judicial Precedents

1. Supply

GST on Letting of Plots of Lands on long term lease basis

Builders Association of Navi Mumbai versus Union of India and Others [Supreme Court Order]

Facts: In case of **Builders Association of Navi Mumbai, Neelsidhi Realities Versus Union of India Through The Secretary, Ministry of Finance, The Commissioner of Goods and Service Tax, Thane & Others**, Bombay High Court held that if one refers to Schedule II, section 7, then, Item No. 2 styled as land and building and any lease, tenancy, licence to occupy land is a supply of service. Any lease or letting out of a building, including commercial, industrial or residential complex for business, either wholly or partly is a supply of service. It is settled law that such provisions in a taxing statute would have to be read together and harmoniously in order to understand the nature of the levy, the object and purpose of its imposition. No activity of the nature mentioned in the inclusive provision can thus be left out of the net of the tax. Once this law, in terms of the substantive provisions and the Schedule, treats the activity as supply of goods or supply of services, particularly in relation to land and building and includes a lease, then, the consideration therefor as a premium/one-time premium is a measure on which the tax is levied, assessed and recovered. We cannot then probe into the legislation any further.

The demand for payment of GST is in accordance with law. The said demand cannot be said to be vitiated by any error of law apparent on the face of the record. In these circumstances, we do not find any merit in the writ petition. - Decided in favor of revenue.

Held: We do not find any good ground and reason to take a different view than the one expressed by the High Court. However, it is clarified that we have not examined the question of exemption granted by Notification No. 12 of 2017-CT (Rate) dated 28.07.2017 w.e.f., 01.07.2017. We have also not examined the scope and ambit of the expression in Clause 2 (a) of Schedule-II “licence to occupy land is a supply of services” of the Central Goods and Services Act, 2017. These aspects are left open.

GST – Judicial Precedents

2. Detention & Confiscation of goods

Contention that the search and seizure authority does not have the Jurisdiction to pass the Order is not applicable in case of Detention and Confiscation of goods

M/s. J and T Gems and Jewellery Pvt. Ltd., Bhubaneswar versus the DY. Commissioner of State Tax, BBSR and others [Orissa High Court]

Facts: Mr. R.P. Kar, learned counsel appearing for the petitioner contended with vehemence that by virtue of the letter dated 22.12.2022, the Joint Commissioner, State Tax, Enforcement Range, Bhubaneswar issued authorization in favour of one Shri M.K. Pradhan, Deputy Commissioner of State Tax, Enforcement Unit, Bhubaneswar under Rule 139 (1) of the OGST/CGST Act in the prescribed form GST INS-1 for inspection, search and seizure and on that basis, he caused inspection, search and seizure and passed the demand order on 15.04.2023 under Section 130 of the OGST/CGST Act vide Annexure-10 by levying penalty and fine on the petitioner in lieu of the confiscation. He further contended that Mr. M.K. Pradhan being the search and seizure officer, he has no authority to pass the final order and as such, he has acted as the judge of his own cause. Therefore, he seeks interference of this Court.

Held: Having heard learned counsel for the parties and after going through the record, it is admitted fact that the authorization for inspection, search and seizure has been granted by the Joint Commissioner of State Tax, Enforcement Range on 22.12.2022 to Mr. M.K. Pradhan. Since the said power has been vested with him, on that basis he carried search and seizure operation of the petitioner's premises and thereafter passed the order of demand under Annexure-10 imposing penalty and fine under Section 130 of the OGST/CGST Act. The dispute raised before this Court that the search and seizure authority having passed the order has exceeded its jurisdiction is rejected. Rather the authority has acted within the competency to pass such order.

Therefore, the contention raised that he cannot be a judge of his own cause, that principle is not applicable to the present case. Had the same been passed under Section 73 or Section 74 of the Act, then matter would have been different. But here the order has been passed under Section 130 of the OGST/CGST Act. Though certain other questions were raised by Mr. R.P. Kar, learned counsel for the petitioner, in view of the fact that the order impugned is appealable one, this Court disposes of the writ petition giving liberty to the petitioner to pursue its remedy before the appropriate authority, if it is so advised.

GST – Judicial Precedents

3. Demand and Recovery

Issuance of only Summary Notice and Order in Form GST DRC-01 and GST DRC-07 without issuance of detailed Show Cause Notice and Order is not valid.

M/s. Shree Ram Agrotech Versus The State of Jharkhand [Jharkhand High Court]

Facts: As a matter of fact, the petitioner vide its application dated 25.08.2021 applied for a certified copy of the Form DRC-07 dated 19.01.2019 passed in the case of the petitioner. The certified copy of DRC-07 was given to the petitioner on or around 27.08.2021. Since Form DRC-07 is only a summary order and the petitioner was not provided with the detailed order in terms of Section 73 of the JGST Act and as the petitioner was not provided with the show cause notice, the petitioner vide its letter dated 01.09.2021, requested the respondent authorities to provide a copy of the detailed order and the show cause notice as soon as possible. The respondent authorities expressed their inability to provide the copy of the detailed order and the show cause notice to the petitioner as these documents were not available in the records of the respondent.

Held: It is crystal clear that no show cause notice in terms of Section 73 (1) of the JGST Act, 2017 has been served by the Respondents upon the Petitioner towards imposition of the tax, interest and penalty under the JGST Act amounting to Rs. 8,04,134/- for the concerned period. The reliance of the Respondents on the alleged Summary show cause in Form GST DRC-01, dated 20.12.2018, is also of not much avail. The contents of the said Summary show cause in Form GST DRC-01, dated 20.12.2018, does not provide the specific alleged violations by the Petitioner and also does not specifically give the opportunity to the Petitioner to rebut the allegations of the Respondent Department. Thus, in essence, the said Form GST DRC-01 dated 20.12.2018, cannot be considered as an opportunity provided by the Respondent to the Petitioner before passing of the Impugned Summary Adjudication order in Form GST DRC – 07.

Similar issue was adjudicated by a Co-ordinate Bench of this Court in the case of Nkas Services Private Limited v. State of Jharkhand and Others [Jharkhand High Court], wherein this Court has held that a summary of show-cause notice as issued in Form GST DRC-01 in terms of Rule 142(1) of the JGST Rules, 2017 cannot substitute the requirement of a proper show-cause notice.

The Summary Order in Form GST DRC-07 is hereby quashed and set aside - Application allowed.

GST – Judicial Precedents

4. Cancellation of Registration

SCN shall be vague in case of not supplying the relevant reasons and material while proposing cancellation of registration

M/s. Ultra Steel Ward Versus The State of Madhya Pradesh [Madhya Pradesh High Court]

Facts: A bare perusal of the show cause notice reveals that the reason given for the proposed cancellation of registration was as follows :

“In case, Registration has been obtained by means of fraud, wilful misstatement or suppression of facts.”

Apart from the aforesaid reason shown, no other reasons were assigned nor any supporting material was afforded to petitioner. As such, the petitioner filed reply dated 11.02.2022 which was after 7 days period prescribed in the show cause notice for furnishing of reply. Thereafter, the impugned order of cancellation of registration was passed on 11.02.2022 by which the registration of the petitioner-firm stood cancelled w.e.f. 26.04.2021.

Held: In the present case, the show cause notice did not contain sufficient reasons to enable the assessee-petitioner to file a reply and, therefore, reasonable opportunity of being heard was denied to the petitioner. By saying that the registration has been obtained by fraud/wilful misstatement/suppression of facts, is not sufficient. Such terms need to be supported by reasons as to why, how and under what circumstances the registration was obtained by fraud/wilful misstatement/ suppression of facts. More so, such reasons ought to be supported by at least some fundamental supporting material, which, in the instant case is conspicuously missing - More so, the order of cancellation of registration is also bereft of any reason whatsoever and thus disables the petitioner-assessee from effectively availing the remedy of statutory appeal u/s.107.

In the conspectus of aforesaid discussion, this Court has no manner of doubt that the impugned show cause notice and the consequential order of cancellation of registration, rejection of application for revocation of cancellation of registration dated 30.03.2022 and the appellate order are vitiated in law for being vague and having been issued in violation of principles of natural justice (audi alteram partem).



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